

REMARKS

Claims 1-11, 21, 22, 24-30 and 32-35 are currently pending in this application. Claims 14-20 and 36-49 have been withdrawn. Claims 1-11, 21, 22, 24-30 and 32-35 have been rejected. Claims 13 and 31 are canceled and claims 1 and 21 are amended by this Amendment. No new matter is introduced. Support for the amendment by be found, for example, in canceled claim 13. No further search is needed as the amendment incorporates existing subject matter from canceled claims. In view of foregoing amendments and following remarks, Applicant respectfully requests allowance of the Application.

Claim Rejections Under 35 U.S.C. §101

Claims 1-11 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 1 has been amended to recite that “[a] computer-implemented ... method” in the preamble and performing various steps using a computer, including “receiving an indicator of business performance via an input device of the computer.” A computer-implemented method using a computer to accomplish various steps including “receiving an indicator of business performance via an input device of the computer” is statutorily patentable as the process is tied to a particular machine. Withdrawal of the rejections is respectfully requested.

Claim Rejections Under 35 U.S.C. §103(a)

Claims 1-3, 5, 7-11, 21-22, 24-30, 32 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,909,669 (hereafter “Havens”) in view of U.S. Pat. No. 6,411,936 (hereafter “Sanders”), and further in view of *Might* (US 6,766,319). Claims 4, 6, 33 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Havens in view of Sanders and Might, and further in view of *Nelson* (US 7,233,908). Even under KSR, obviousness is not shown unless the collected art teaches all elements of the pending claims. *See, Ex Parte Wollenhaupt*, BPAI, Appeal No. 2007-3142 (Mar 13, 2008). Here, the claims define elements that are not disclosed by any cited reference. Applicant respectfully requests withdrawal of the outstanding rejections because the cited prior art references do not teach or suggest all elements of the pending claims.

Claim 1 Defines Over The Cited References

Claim 1 recites, in relevant part:

aggregating E-survey results data with other business data into a business information warehouse, wherein ***the other business data include sales data,***

turn over rate and illness rates that are acquired via means other than the E-survey;

None of the cited references discloses the above bolded feature. The Office Action alleges Havens discloses aggregating survey results data with other business data. However, Havens discloses a database 12 which includes a rank database 14, a weight database 16 and a benchmark database 18. See Havens, col. 6, ll. 22-23 and 34. Neither of Havens's databases contain "other business data" that "***include sales data, turn over rate and illness rates that are acquired via means other than the E-survey***" as claimed. Moreover, Sanders merely mentions "revenue and profit 519" as part of a business model. See Sanders, col. 9, ll. 54-64. Nothing in Sanders teaches or suggests the "revenue and profit 519" are business data to be aggregated with survey data, and accordingly does not cure the defects of Havens. Further, Might is directed to an information system that concerns gathering user input, evaluate user input and administering the system. See Might, Abstract. Might does not cure the defects of Havens either. Therefore, Havens, Sanders and Might, either alone or in combination, do not disclose each and every feature recited in the independent claim 1, and the rejection should be withdrawn.

The Office Action further cites to Nelson for features recited in dependent claims 4, 6, 33 and 35. As discussed in a previously filed Response, the Nelson reference is directed to evaluating and presenting surveys ratings and reports from customers. Nelson does not cure the deficiencies of Havens and Sanders. Thus, independent claims 1 and 21 are allowable over all cited references.

Dependent claims 2-11, 22, 24-30 and 32-35 are allowable for at least the same reason as described above for independent claims 1 and 21. Withdrawal of the rejection and reconsideration is respectfully requested.

CONCLUSION

All outstanding rejections have been overcome. It is respectfully submitted that, in view of the foregoing amendments and remarks, the application is in clear condition for allowance. Issuance of a Notice of Allowance is earnestly solicited.

Although not believed necessary, the Office is hereby authorized to charge any fees required under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayments to Deposit Account No. 11-0600.

The Office is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,

Date: March 27, 2009

/Robert L. Hails, Jr./

Robert L. Hails, Jr

Registration No. 39,702

Kenyon & Kenyon LLP
1500 K Street, NW, Suite 700
Washington, DC 20005-1257
Tel.: (202) 220-4200
Fax.: (202) 220-4201